

City of Taylorsville
Planning Commission Meeting Minutes
January 22, 2013
Work Session – 6:00 P.M.
2600 West Taylorsville Blvd – Council Chambers

Attendance:

Planning Commission

Garl Fink, Chair
Anna Barbieri, Vice Chair
Ted Jensen
Steven Faurschou
Dale Kehl
Dan Fazzini, Jr.
Israel Grossman
Curt Cochran (Alternate)

Community Development Staff

Mark McGrath – Director/Community Development
Michael Meldrum – Principal Planner
Jean Gallegos – Admin Asst/Recorder
Excused: Dan Udall – City Planner

PUBLIC: Jared Johnson (YESCO)

WELCOME: **Commissioner Fink** assumed duties as Chair, welcomed those present, explained the process to be followed this evening and opened the meeting at 6:00 p.m.

DISCUSSION ITEMS

1. Discussion of the Digital Billboard Ordinance. (Michael Meldrum/Principal Planner) [18:03:45](#)

1.1 This item was presented by **Michael Meldrum**. [18:06:09](#) He advised that up to this point, billboards were addressed in the ordinance by saying they would not be allowed. Nothing else was covered in the code adopted in July, 2012. As it stands now, anything legally permitted up to Jan 1st this year will be allowed but no new signs will be permitted.

- **Commissioner Faurschou** asked if the billboard signs could possibly be relocated and **Mr. Meldrum** said that they can be under certain extenuating circumstances. [18:07:45](#) **Commissioner Cochran** wanted to know how many billboards are left in the City and **Mr. McGrath** said that there are eight different locations, with most signs being back to back, and mostly along Redwood Road. **Commissioner Fink** commented that they would have to re-apply for a new building permit in order to move them. **Mr. McGrath** said that based on State and case law regarding legal non-conforming uses, the City is required to maintain the number of billboards now existing in the City. There is a possibility that some may be relocated to better, more appropriate locations. **Mr. Meldrum** cited one location in Taylorsville where a billboard had been relocated.
- **Commissioner Fazzini** wanted to know who owns the billboards the City now has. **Mr. Meldrum** advised that Reagan Sign Company owns all those presently in the City. Young Electric Sign Company (YESCO) provides all the signs here but have no sign locations of their own. He wanted to know what the Commission's thoughts were on if they preferred rather than to eliminate the sign, to ask that the company that failed to obtain the permit, loses the opportunity to further pursue that. **Commissioner Fazzini** said that there would still be the 14 available slots for signs available. Basically they lose the right to it without reapplying. **Commissioner Cochran** asked what the process would be for a competitor then to take that slot. **Mr. Meldrum** said that they would need to buy out the location and make application. **Commissioner Fink** wondered what the time table would be if a particular company opted not to apply and would lose the spot. **Mr. Meldrum** said that there is no time table presently in place and that would be left up to the Commission to decide. **Commissioner Jensen** felt that would then be considered abandonment of a sign if it is not being used, therefore, can be removed by the City. **Mr. McGrath** felt it would then fall back on the legal non-conforming use provision in the Code, which he believed to be two years.
- **Mr. Johnson** from YESCO spoke from the audience and was inaudible on the recorder. **Commissioner Fink** asked him to come to the podium and repeat his comments. While Mr. Johnson approached the podium, **Commissioner Fink** added comments to the point that if a sign company desired not to maintain the sign and the City decided to take it down, how long would it be legally left

vacant before that happened. Commissioner Fazzini wondered how long it would need to be vacant to constitute a nuisance. Mr. Meldrum said that the non-conforming use provision in the Code must be followed and go through normal code enforcement procedures. Under State law there is a specific guideline with how to go about amortizing a billboard sign, whether it be digital or static. Commissioner Fink asked if that were based on the life of the sign then. Mr. Meldrum said that basically what the State code says is that the signs have rights that don't expire. Therefore, cannot be amortized over a specific period of time. Mr. McGrath added that for all intents and purposes they cannot be phased out based on the exception they have been given in the State code. Commissioner Fazzini advised that they would still be subject to code enforcement for nuisance issues.

- Commissioner Jensen said that if the sign company were to go out of business and the sign sat for months with no offers received to buy it, it could be declared a nuisance and removed by the City. Mr. Meldrum agreed that under that particular scenario that would be correct. [18:18:15](#)

1.2 Jared Johnson (Young Electric Sign Company). Mr. Johnson advised that State Statute does not allow for amortization of billboard signs. There are a number of uses in the State Statutes where municipal governments and county governments have completely zoned them out, in other words do not provide an alternate zone to relocate to, which is the case with Taylorsville's City Ordinance. In that circumstance the State of Utah found that it was necessary when there is no alternative zone or property zoned for the relocation of a use, that they would allow them to be exempt from being amortized. So the way Taylorsville's ordinance is written already recognizes the fact that the structures cannot be amortized.

1.3 DISCUSSION:

- Commissioner Cochran commented that he understood then that if there were a billboard that went unused, because of the way this ordinance is written, the number of billboards cannot be reduced even though it has been decided that the company that owns it is not going to use it any longer. Mr. Johnson said that in his first reading of the ordinance that would be the result of the ordinance unless it could be addressed as being a nuisance, nuisance structure or abandoned sign. He recommended that definition be added to this ordinance because he did not see it there. [18:20:26](#) Under those circumstances it could reduce the number of signs existing in the City, just not through amortization. Commissioner Cochran said then that point A and point B are contradicting each other. Mr. Johnson advised that it is actually written appropriate for what the State Statute would allow.
- Commissioner Fink asked about the last thing referenced by Mr. Johnson and he repeated it could be done as a nuisance, nuisance structure or abandoned sign. Mr. Meldrum thought that particular definition was in the other part of Chapter 26, Signs. He advised that Staff would refer to that by reference.
- Mr. Johnson agreed, those signs are still subject to local control as to whether it is an abandoned use or not. Commissioner Kehl added that what is being said is that a company cannot ask for a permit to last say ten years and then it goes away. He added that in Section A it states that, "we shall be limited to those billboards that are legally permitted prior to this date." So if one goes defunct does that mean that if it is not re-licensed it, the sign can be taken away as a nuisance. He asked if the intent of the ordinance was if something goes defunct, they don't re-permit it or by becoming a nuisance the City can take it down. Would the number of allowed signs in the City always remain as eight or be reduced. Mr. Meldrum advised it would be reduced.
- Mr. McGrath said that needed to be specifically written that way and included in the ordinance. Mr. Johnson commented that Salt Lake City had this same issue and instituted a bank for signs where if a sign goes down there, it is put into the bank as an open permit and the City maintains discretion over the reissue process. That works well for Salt Lake City because they have so many billboard signs but it could also be given consideration here in Taylorsville. Mr. McGrath was of the opinion that the billboards in Taylorsville are mostly along Redwood Road so he was not sure the bank for signs would work that well here.

1.4 Mr. Meldrum continued on with his presentation and discussed the items proposed in the new ordinance individually in order. Resulting discussion revealed problems with the lighting level controls, hours of their operation, insurance issues, permanence issues, restrictions over allowable heights and size of signs and the need to be able to access public service announcements, such as Amber Alerts, etc. Presently the City of Taylorsville has 14 sign faces and the Commission would like to see a copy of the map showing signs presently here. Mr. Meldrum advised that he would compile and include the Commission's comments in the next draft and bring it back for final review in the near future. [19:54:25](#)

2. Discussion of the Boulder City, Colorado Cycling Facilities. (Mark McGrath/Director)

- 2.1 This item was presented by **Mark McGrath**. [19:55:34](#) He explained that last September he went to Boulder, Colorado, a suburban community outside of Denver, reference bicycling facilities. He found Boulder to be very affluent economically and fast becoming a model community.
- 2.2 They had become aware that their quality of life had diminished in their City and decided to allow no more vehicle increasing type elements. Their motto had become "Stay the course of no long term growth in auto traffic" and Boulder is now a leader in bicycle/pedestrian planning. Their main impetus had become that transportation was strictly geared towards bicycle/pedestrian growth. **Mr. McGrath** gave a very informative visual display of photographic images of things that have recently occurred in that City.
- 2.3 **Commissioner Kehl** wanted to know how projects like this are funded, especially in the present economy. **Commissioner Fazzini** offered that some city's fund these by a percentage of funds being diverted from the Transportation budget line item. [20:22:26](#)

3. Discussion of Planning Commission Rules and Procedures. (Mark McGrath/Director and Michael Meldrum/Principal Planner)

- 3.1 **Mr. McGrath** [20:42:53](#) advised that this item is being presented as a refresher guide and in no way indicates there is a problem in this area with anyone on the Commission. He said one important issue is Ex Parte contact or communication, which Mr. Meldrum will address. Another very important element of being a Planning Commissioner is knowing how to make a Motion because if ever a Planning Commission is challenged in court or even before the City Council, the first thing that will be looked at is the actual Motion, decision and the vote. It is very important to structure the Motion in a way that will satisfy legal scrutiny. A typical motion comes in three parts – the first part is the **Findings of Facts**. Those are the things that play into the decision to help make that decision. For example, if the Commission is approving a single family home, one of the Findings of Facts would be that this proposal is in a residential zoning classification. That is a Finding to help facilitate the eventual decision. Findings of Facts should establish a legal frame work for the decision, i.e., is it a permitted use for the zoning designation, is the proposal consistent with the General Plan and identify elements unique to the use and/or location. The second part is a **recommendation for approval, denial, continuance or approval with conditions**. This is where the Commissioner actually says what the decision is. Part three would be the conditions being placed on the approval or reason for denial, etc.

Steps for making a motion:

- 4.1.1 Commissioner seeks recognition from Chair
 - 4.1.2 Commissioner is recognized by the Chair and "has the floor"
 - 4.1.3 Commissioner makes the motion
 - 4.1.4 The motion is seconded
 - 4.1.5 Chair restates the motion*
 - 4.1.6 Commission debates the motion*
 - 4.1.7 If there is significant debate, the Chair restates the motion prior to the vote.
 - 4.1.8 Commission votes on the motion
 - 4.1.9 Chair announces the result of the motion
- Additional or supplementary motions may be made following steps 5 or 6 for any motion made. Additional or supplementary motions follow the same process as the main motion.

DISCUSSION: **Commissioner Fink** felt that the Commission had been doing a pretty good job making motions. **Mr. McGrath** said that was true and Staff merely felt like since there were new members now that it was a good time for a refresher. He commented on an incident that occurred in Summit County wherein the applicant noted that one Commissioner had made a comment to another during the public hearing (which turned out to be not connected to the issue before the Commission) but formed the basis for an appeal of the Commission's decision by the applicant, which he won. **Commissioner Fink** asked if it is appropriate for Staff to tell a Commissioner that a Motion is lacking in some area. **Mr. McGrath** advised that if Staff ever hears an inappropriate motion or one that Staff feels might end up creating problems later on, they certainly would bring it to the attention of the Commission in the form of asking for clarification or a point of order.

- 3.2 **Mr. Meldrum** addressed the Commissioners with regard to Ex Parte matters. **Mr. Meldrum** outlined a dissertation made by Greg Dale, FAICP on this subject. Ex Parte defined means from a one sided point of view. Commissioners must be careful that there is no implied unfairness applied during any process on which they are conducting a hearing and making a decision about. [21:00:10](#) They were urged to apply the "reasonable person" test. For instance, imagine a person attending a Planning

Commission meeting who has not already made up their mind about a project on the agenda, who is not connected to local government, and who is not part of either an applicant or an opponent group. Then imagine that person learning that private discussions had been held between individual members of the Planning Commission and either those promoting or opposing the proposed development. Privileged communication. The reaction of that person would probably be negative and openly suspicious of the whole process. [21:02:48](#)

- 3.3 **Commissioner Cochran** [21:06:27](#) wondered if he, as a Taylorsville citizen, could contact his City Council representative and **Mr. McGrath** said that would depend on the subject. If it concerned zoning or the General Plan it would be permissible but if it involved anything to do with a conditional use it would not be permissible. [21:07:38](#)

BUSINESS ITEM

4. Election of Planning Commission Chair and Vice-Chair for 2013-2014.

- 4.1 **Mr. McGrath** explained that according to the Planning Commission By-laws, elections must be held in a public meeting in January of each year to install a new Chair and new Vice-Chair and tonight they will nominate and vote for officers for 2013-2014. [21:10:25](#)
- 4.2 **MOTION: Commissioner Barbieri** - I recommend we appoint Commissioner Fazzini as Chair and Commissioner Faurschou as Vice-Chair. Motion dies for lack of a second.
- 4.3 **MOTION: Commissioner Grossman** - I recommend we appoint Commissioner Barbieri as Chair and Commissioner Faurschou as the Vice Chair. [21:19:54](#)

SECOND: Commissioner Kehl

VOTE					
Commissioner	Vote	Commissioner	Vote	Commissioner	Vote
Faurschou	AYE	Barbieri	AYE	Kehl	AYE
Jensen	AYE	Fazzini	AYE	Fink	Chair
Grossman	AYE	Cochran	Alt		
Motion passes 6 to 0.					

OTHER BUSINESS: None.

CITY COUNCIL MEETING DISCUSSION: **Commissioner Cochran** furnished a written copy of his comments for the last City Council meeting via E-Mail to the Commission and Staff prior to this meeting.

ADJOURNMENT: By motion of **Commissioner Barbieri** the meeting was adjourned at 9:26 p.m. [21:25:56](#)

Respectfully submitted by:



Jean Gallegos, Admin Asst/Recorder for the
Planning Commission

Approved in meeting held on February 12, 2013